

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DELBERT MOSELY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:07-CV-1578 CAS
)	
S.K. HIGHSMITH, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court upon the motion of pro se plaintiff Delbert Mosely for appointment of counsel. For the following reasons, the motion will be granted.

“A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.” Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998). In determining whether to appoint counsel, the Court is to consider several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff’s allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1005 (8th Cir. 1984).

After considering these factors, the Court finds the appointment of counsel is warranted at this time. Plaintiff has been granted leave to proceed in forma pauperis and has stated a non-frivolous claim for relief in his complaint. Moreover, the allegations in the complaint are of the type which may not be readily solved on dispositive motions, and may require a trial. It also appears that plaintiff’s health might impede his ability to litigate this cause of action should he continue to proceed pro se.

Accordingly,

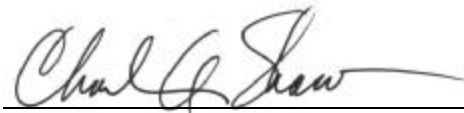
IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel is **GRANTED**. [Doc. 33]

IT IS FURTHER ORDERED that John R. Hamill, III, of the Law Firm Barklage and Brett, 211 N. Third Street, St. Charles, Missouri, 63301, telephone number (636) 949-2120, is hereby appointed as counsel for the plaintiff. Counsel shall have thirty (30) days from the date of receipt of the Court file in which to file an amended complaint if deemed appropriate.

IT IS FURTHER ORDERED that the Clerk of the Court shall provide appointed counsel with a copy of the complete Court file.

Appointed counsel is advised that all applications for disbursement of funds from the Eastern District's Attorney Admission Fee Non-Appropriated Fund are governed by Local Rules 12.03 and 12.06, the Administrative Order of January 15, 2008 concerning the Attorney Admission Fee Non-Appropriated Fund, and the Regulations Governing the Disbursement of Funds from the Non-Appropriated Fund for Attorney's Fees and Out-of-Pocket Expenses Incurred by Attorneys Appointed to Represent Indigent Parties in Civil Proceedings Pursuant to 28 U.S.C. § 1915(e), dated January 15, 2008. The Order and Regulations, as well as form requests for compensation of services and reimbursement of expenses, may be obtained from the Clerk of the Court or printed from the Court's Internet website, www.moed.uscourts.gov.

Under Local Rule 2.05(B), if the financial status of a party who has been granted in forma pauperis status changes (e.g., by obtaining employment, a salary increase, receipt of disability or other benefits, etc.), the party must promptly notify the Court in writing. Failure to notify the Court may result in dismissal of the case or other sanctions.

A handwritten signature in cursive script, reading "Charles A. Shaw", written in dark ink.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 27th day of April, 2009.